

REMARKS

In the Advisory Action mailed December 26, 2006, the amendment filed December 9, 2006 was said not to place the Application in condition for allowance and was not entered. Thus, the claims stand rejected as set forth in the Final Office Action mailed October 4, 2006: claims 1, 3-6, 12-16, 20 and 22-25 were rejected under §102 as being anticipated by Crockett ('861) and claims 2, 7-11, 17-19, 21 and 26-30 were rejected under §103 as being unpatentable over various references.

In the present Response, claims 1, 3, 5, 7, 9, 10, 12, 13, 15, 17, 18, 20, 22, 24, 26, 28 and 29 are amended; claims 4, 6, 11, 14, 23, 25 and 30 are cancelled; and claims 2, 8, 16, 19, 21 and 27 are unchanged. In addition, paragraph 1 of the Specification has been amended to update the identification of applications incorporated by reference; no new matter has been added.

With respect to the independent claims 1, 12 and 20, Crockett '861 discloses a system for copying in which updates are transferred from a primary storage controller to a secondary storage controller using a host system data mover. The Office Action asserts that Crockett '861 discloses the claimed "determining whether a consistent point in time copy of the updates pending for storage on the backup storage device at the time the failure is detected form an intact consistency group." This claimed element has been amended for clarity to recite "determining whether an intact consistency group exists on the backup storage device at the time the failure is detected." Even so, the reference to column 3, lines 4-6 in Crockett '861 does not disclose making such a determination. Rather, Crockett '861 here discloses "determining a set of full consistency group recovery rules specific to the secondary storage devices," a different step from that recited in the pending claims. Crockett '861 also fails to disclose newly added elements such as "forming a new intact consistency group if an intact consistency group does not exist on the backup storage device at the time the failure is detected."

The Office Action also asserts that Crockett '861 discloses the claimed "resynchronizing the local storage device" and cites Figure 10, item 1085, of Crockett in support. However, as quoted in the Office Action, item 1085 is a process block to

"request primary site to resend missing records" to the secondary at the request of the secondary (column 15, lines 30-33). "Figure 10 is a flow diagram showing a method of collecting information and read record sets for forming consistency groups" [column 4, lines 1-3] and, at this point in the procedure, a failure in the primary site is not at issue. If the primary site was still in a failed state, it would not be able to resend any data to the secondary and if the failure had been repaired, as set forth in the present claims, the changed data would not be moving from the primary to the secondary but, as claimed, would be moving in the opposite direction. The claimed "copying changed data from the remote storage device to the local storage device" is different from Crockett's "requesting [the] primary site to resend missing records" to the secondary site (emphasis added). Thus, Crockett '861 does not, as asserted in the Office Action, disclose the claimed "resynchronizing the local [primary] storage device". Crockett also does not disclose

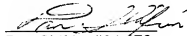
With respect to claims 8, 17 and 27, the Office Action admits that Crockett '861 fails to disclose writing post-failure updates "to the remote storage controller from a remote host" (emphasis added). The Office Action then asserts that Beardsley teaches this step. However, the cited column 4, lines 40-42 of Beardsley refers only to transferring updates from the primary to the remote, a different process for a different reason. Thus, the combination of Crockett '861 and Beardsley fail to render the pending claims obvious.

In addition to the noted grounds for allowability of dependent claims 8, 17 and 27, the Applicant also respectfully asserts that these and the other dependent claims are allowable based on the allowability of the respective independent claims. Consequently, the pending claims are neither anticipated by Crockett '861 nor rendered obvious by any combination of the cited references and the rejections should be withdrawn.

For the foregoing reasons, the claims are believed to be allowable, the Application is believed to be in condition for allowance and a favorable Office Action is requested. The Examiner is encouraged to contact the undersigned by telephone if a conversation would expedite prosecution of this case.

This constitutes a request for a three-month extension of time. The undersigned hereby authorizes the charge of any fees submitted herewith, or the credit of any overpayment, to deposit account number 09-0449.

Respectfully Submitted,



Dan Shifrin, #34,473
Law Office of Dan Shifrin
14081 West 59th Ave
Arvada, Colorado 80004
303-403-4510
303-785-8795 (Fax)

cc: IBM- Tucson